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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/615,978	07/14/2000	Walter V. Klemp	P01880US1	6708

23770 7590 02/23/2004

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EXAMINER

STEPHENS, JACQUELINE F

ART UNIT	PAPER NUMBER
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3761

23

DATE MAILED: 02/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/615,978

Applicant(s)

KLEMP ET AL.

Examiner

Jacqueline F Stephens

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,5,8-19,21-23,28,30,31,33 and 35-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,5,8-19,21-23,28,30,31,33 and 35-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 July 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Request for Continued Examination***

1. The request filed on 11/12/03 for a continued examination (RCE) under 37 CFR 1.1.114 based on parent Application No. 09,615,978 is acceptable and an RCE has been established. An action on the RCE follows.

### ***Response to Arguments***

2. Applicant's arguments filed 11/12/03 have been fully considered but they are not persuasive. Applicant argues (on page 11) that Suzuki '196 does not disclose the features recited in claim 1, specifically that the longitudinally extending absorbent composite of the cuffs are sections of one continuous absorbent composite structure positioned about the crotch region. The examiner has not relied on Suzuki '196 for this feature. Applicant is directed to page 4 of the last Office Action mailed 6/2/03, where the examiner relies on the combination of Suzuki WO9825999 and Stern et al. USPN 4681577, and Hamajima et al. USPN 6326525 to reject the recited elements of claim 1. In the event applicant was referring to Suzuki '999, the examiner has again relied on Hamajima to teach the longitudinally extending absorbent composite of the cuffs being continuous with the absorbent composite structure positioned about the crotch region, which the combination of Suzuki '999 and Stern '577 fails to teach (see above mentioned Office Action page 4 and Figures 2A, 9, and 13 of Hamajima).

Applicant further argues the free-edge portions 22 of Hamajima are not longitudinally extending, upstanding cuffs as recited in claim 1. While Figures 2A, 9, and 13 depict the 'upstanding' characteristic of the cuffs, Figures 1 and 3 better depict how the cuffs extend in a longitudinal direction of the absorbent article.

Applicant argues generally that Hamajima would not anticipate the construction and properties illustrated through Figures 15-16 of the present application. It is not clear to the examiner which construction and properties are being argued, however, any features upon which applicant relies must be recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The examiner has addressed the previously claimed features of claim 1 on page 4 of the last Office Action.

Applicant argues there is no motivation for substituting the material and construction employed by Hamajima with the inventive absorbent layer of the invention, nor the know-how to make such a substitution workable. The examiner has relied on the secondary reference, Hamajima only for the teaching of side cuffs comprising an absorbent composite. The combination of the primary reference, Suzuki '999 and the secondary reference Stern '577 is relied on to teach the properties of the absorbent composite.

***Claim Objections***

3. Claim 18 is objected to because of the following informalities: Claim 18 recites the limitation 'SMS' without defining the term. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 35 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 35 is dependent on cancelled claim 34. The scope of the claim cannot be determined.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

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the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 1, 5, and 8-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki WO 9825999 A1 (English version is EP 0 947549) in view of Stern et al. USPN 4681577 in view of Hamajima et al. USPN 6326525, and further in view of Suzuki et al. USPN 6258196.

Regarding claims 1, 5, 8, and 13, Suzuki discloses an absorbent article as claimed (Figure 52 of EP 0 947549; and page 16, lines 2-5) comprising an absorbent layer of hydratable fine fibers 114 in the form of microfibril obtained from cellulose or a derivative thereof (EP 0 947549 page 6, lines 45-54) and super absorbent polymer particles bonded together by the hydratable fibers (EP 0 947549 page 3, lines 46-49 and page 6, lines 11-45) and a nonwoven substrate supporting the absorbent layer (EP 0 947549 page 8, line 16 through page 11, line 12). The absorbent layer is coated (WO 9825999 Abstract). Suzuki fails to disclose a coating of mineral oil over the SAP particles of the absorbent layer. Stern discloses an absorbent layer comprising superabsorbent particles and mineral oil (Stern col. 13, lines 40-49). It would have been obvious to one of ordinary skill in the art at the time the invention was made to

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incorporate mineral oil in the absorbent layer of Suzuki. Doing so would provide an absorbent structure with high liquid retention and that entraps moisture and prevents leakage to surrounding clothing, which Stern teaches is desired.

Suzuki/Stern fails to disclose the absorbent article comprises cuffs containing absorbent material. Hamajima discloses an absorbent article having an absorbent composite that may also be contained in side cuffs or side-wrapping elements (Hamajima Figures 2A, 9, and 13) for the benefits of preventing leakage from the sides of the absorbent article (Hamajima col. 1, lines 35-46). It would have been obvious to one of ordinary skill in the art to modify the absorbent composite of Suzuki/Stern to comprise absorbent side cuffs for the benefits taught in Hamajima.

The absorbent composite of Suzuki/Stern/Hamajima has three components – a central fixed component, one left and one right component for side leakage prevention, wherein the central (first) composite and the left and right (cuffs) are sections of one continuous absorbent composite structure (Hamajima Figures 2A, 9, and 13).

Suzuki/Stern/Hamajima disclose the present invention substantially as claimed. However, Suzuki/Stern/Hamajima fails to disclose the super absorbent polymers exhibit gel blocking. Suzuki '196 discloses the polymeric materials are adapted to swell such as in '196 Figure 16b. Suzuki '196 further discloses that the 'waves' are hydrophobic, which inherently creates a water impervious area when the polymeric materials swell ('196 col. 18 line 58 through col. 19, line 19). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the composite with a low crosslinked material to create a liquid impervious material, since Suzuki '196



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teaches creating a liquid barrier due to the swelling of the absorbent particles (col. 14, lines 15-25, col. 18, line 58 through col. 19, line 3). Additionally, it would have been obvious to one of ordinary skill in the art at the time of the invention to use the absorbent composite in the backsheet as claimed, since the absorbent particles as modified above are capable of creating a liquid barrier.

Suzuki '999/Stern/Hamajima/Suzuki '196 disclose the present invention substantially as claimed. Suzuki '999/Stern/Hamajima/Suzuki '196 do not disclose a concentration of the superabsorbent materials in the range of about 50 g/m<sup>2</sup> to about 500 g/m<sup>2</sup>. However, with respect to the limitations of SAP concentration, the specification discloses the limitations on page 18, lines 8-10, but contains no disclosure of either the critical nature of the claim limitations nor any unexpected results arising therefrom, and that as such the limitations were arbitrary and therefore obvious. Such unsupported limitations cannot be a basis for patentability, since where patentability is said to be based upon particular dimensions or another variable in the claim, the applicant must show that the chosen variables are critical. *In re Woodruff*, 919 F.2d 1575, 1578, 16 USPQ 2d 1934 (Fed. Cir. 1990). One having ordinary skill in the art would be able to determine through routine experimentation the ideal levels of SAP concentration for a particular application.

Regarding claims 9, 11, and 12, see Figures 11, 12, 14, and 15 of Suzuki'999.

Regarding claim 10, Suzuki'999/Stern/Hamajima/Suzuki '196/Gross discloses the surface sections on sheet 14, between absorbent layer 10, serve to distribute fluids (EP 0 947549 page 16, lines 6-33).

Regarding claims 14 and 16 see Figure 10 of Suzuki'999 and EP 9 947549 page 7, lines 2-5.

Regarding claim 15, Suzuki'999/Stern/Hamajima/Suzuki '196/Gross discloses the absorbent composite further includes a concentration of pulp material (EP 0 947549 page 7, lines 49-55). The absorbent layer and nonwoven substrate form a sheet disposed about the pulp concentration such that the pulp concentration is disposed between at least two layers of the sheet of absorbent layer and nonwoven substrate.

As to claim 17, Suzuki'999/Stern/Hamajima/Suzuki '196/Gross discloses a water-swellaable, water-insoluble polymeric material suitable for use in absorbent articles. However, Suzuki'999/Stern/Hamajima/Suzuki '196/Gross do not disclose the free swell capacities of the SAP. Gross further discloses that the amount of cross-linking is proportional to its water-swellaability. Therefore, Gross teaches the free swell capacity is a result effective variable of the amount of crosslinking of the SAP. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the composite of Suzuki '999/Stern/Hamajima/Suzuki '196/Gross with an SAP

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having the claimed free swell capacity since discovering an optimum value of a result effective variable only involves routine skill in the art.

9. Claims 18, 19, 21, 22, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki WO 9825999 A1 (English version is EP 0 947549) in view of Hamajima et al. USPN 6326525.

Regarding claims 18, 21, and 22, Suzuki'999 discloses a disposable absorbent article comprising: a topsheet and a backsheet (page 16, lines 2-5, and Figure 10 of EP 0 947549) and further comprising an absorbent composite including an absorbent layer of hydratable fine fibers **114** in the form of microfibril obtained from cellulose or a derivative thereof (EP 0 947549 page 6, lines 45-54) and super absorbent polymer particles bonded together by the hydratable fibers (EP 0 947549 page 3, lines 46-49 and page 6, lines 11-45) and a nonwoven substrate supporting the absorbent layer and wherein the absorbent layer is disposed between the topsheet and backsheet (EP 0 947549 page 8, line 16 through page 11, line 12; and page 15 line 46 through page 16, line 5). The components would obviously be located in the crotch region of the absorbent article as the purpose of the components is to absorb body exudates received in this region. Suzuki discloses the absorbent layer is coated (WO 9825999 Abstract).

Suzuki fails to disclose the absorbent article comprises a pair of longitudinally extending upstanding cuffs, with each cuff having two sheet layers. Hamajima discloses an absorbent article having an absorbent composite that may also be

contained in longitudinally extending side cuffs having an upper and lower layer (Hamajima Figures 2A, 9, and 13) for the benefits of preventing leakage from the sides of the absorbent article (Hamajima col. 1, lines 35-46). It would have been obvious to one of ordinary skill in the art to modify the absorbent composite of Suzuki to comprise absorbent side cuffs for the benefits taught in Hamajima.

The absorbent composite of Suzuki/Hamajima has three components – a central fixed component, one left and one right component for side leakage prevention, wherein the central (first) composite and the left and right (cuffs) are sections of one continuous absorbent composite structure (Hamajima Figures 2A, 9, and 13).

Suzuki/Hamajima discloses the nonwoven substrate is a SMS nonwoven (EP 0 947549 page 8, lines 19-26). Suzuki/Hamajima does not disclose the SAP is included in a concentration of about 20 gsm and the nonwoven substrate has a basis weight in the range of about 10 gsm to 60 gsm. However, with respect to the limitations of SAP concentration and basis weight, the specification discloses the limitations on page 18, lines 8-10, but contains no disclosure of either the critical nature of the claim limitations nor any unexpected results arising therefrom, and that as such the limitations were arbitrary and therefore obvious. Such unsupported limitations cannot be a basis for patentability, since where patentability is said to be based upon particular dimensions or another variable in the claim, the applicant must show that the chosen variables are critical. In re Woodruff, 919 F.2d 1575, 1578, 16 USPQ 2d 1934 (Fed. Cir. 1990). One having ordinary skill in the art would be able to determine through routine

experimentation the ideal levels of SAP concentration and basis weight of the nonwoven substrate for a particular application.

Regarding claim 19, see Figure 10 of Suzuki.

Regarding claim 28, Suzuki/Hamajima discloses the absorbent composite further includes a concentration of pulp material (EP 0 947549 page 7, lines 49-55). The absorbent layer and nonwoven substrate form a sheet disposed about the pulp concentration such that the pulp concentration is disposed between at least two layers of the sheet of absorbent layer and nonwoven substrate.

10. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki WO 9825999 A1 (English version is EP 0 947549) in view of Hamajima et al. USPN 6326525 as applied to claim 18 above and further in view of Suzuki et al. USPN 6258196. Suzuki/Hamajima disclose the present invention substantially as claimed. However, Suzuki/Hamajima fails to disclose the super absorbent polymers exhibit gel blocking. Suzuki '196 discloses the polymeric materials are adapted to swell such as in '196 Figure 16b. Suzuki '196 further discloses that the 'waves' are hydrophobic which inherently creates a water impervious area when the polymeric materials swell ('196 col. 18 line 58 through col. 19, line 19). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the composite with a low crosslinked material to create a liquid impervious material, since Suzuki '196 teaches

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creating a liquid barrier due to the swelling of the absorbent particles ('196 col. 14, lines 15-25, col. 18, line 58 through col. 19, line 3). Additionally, it would have been obvious to one of ordinary skill in the art at the time of the invention to use the absorbent composite in the backsheet, since the absorbent particles as modified above are capable of creating a liquid barrier.

11. Claims 30, 31, 33, 36, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki WO 9825999 A1 (English version is EP 0 947549) in view of Hamajima et al. USPN 6326525 and further in view of Suzuki et al. USPN 6258196.

Regarding claims 30 and 33, Suzuki discloses an absorbent article as claimed (Figure 52 of EP 0 947549; and page 16, lines 2-5) comprising an absorbent layer of hydratable fine fibers 114 in the form of microfibril obtained from cellulose or a derivative thereof (EP 0 947549 page 6, lines 45-54) and super absorbent polymer particles bonded together by the hydratable fibers (EP 0 947549 page 3, lines 46-49 and page 6, lines 11-45) and a nonwoven substrate supporting the absorbent layer (EP 0 947549 page 8, line 16 through page 11, line 12). The absorbent layer is coated (WO 9825999 Abstract).

Suzuki fails to disclose the absorbent article comprises cuffs containing absorbent material. Hamajima discloses an absorbent article having an absorbent composite that may also be contained in side cuffs or side-wrapping elements (Hamajima Figures 2A, 9, and 13) for the benefits of providing preventing leakage from

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the sides of the absorbent article (Hamajima col. 1, lines 35-46). It would have been obvious to one of ordinary skill in the art to modify the absorbent composite of Suzuki/Stern to comprise absorbent side cuffs for the benefits taught in Hamajima.

The absorbent composite of Suzuki/Hamajima has three components – a central fixed component, one left and one right component for side leakage prevention, wherein the central (first) composite and the left and right (cuffs) are sections of one continuous absorbent composite structure (Hamajima Figures 2A, 9, and 13).

Suzuki/Hamajima disclose the present invention substantially as claimed. However, Suzuki/Hamajima fails to disclose the super absorbent polymers exhibit gel blocking. Suzuki '196 discloses the polymeric materials are adapted to swell such as in '196 Figure 16b. Suzuki '196 further discloses that the 'waves' are hydrophobic which inherently creates a water impervious area when the polymeric materials swell ('196 col. 18 line 58 through col. 19, line 19). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the composite with a low crosslinked material to create a liquid impervious material, since Suzuki '196 teaches creating a liquid barrier due to the swelling of the absorbent particles ('196 col. 14, lines 15-25, col. 18, line 58 through col. 19, line 3). Additionally, it would have been obvious to one of ordinary skill in the art at the time of the invention to use the absorbent composite in the backsheet as claimed, since the absorbent particles as modified above are capable of creating a liquid barrier.

Regarding claim 31 see Figure 10 of Suzuki'999.

Regarding claim 36, Suzuki '999/Hamajima/Suzuki '196 does not disclose a concentration of the superabsorbent materials in the range of about 50 g/m<sup>2</sup> to about 500 g/m<sup>2</sup>. However, with respect to the limitations of SAP concentration, the specification discloses the limitations on page 18, lines 8-10, but contains no disclosure of either the critical nature of the claim limitations nor any unexpected results arising therefrom, and that as such the limitations were arbitrary and therefore obvious. Such unsupported limitations cannot be a basis for patentability, since where patentability is said to be based upon particular dimensions or another variable in the claim, the applicant must show that the chosen variables are critical. *In re Woodruff*, 919 F.2d 1575, 1578, 16 USPQ 2d 1934 (Fed. Cir. 1990). One having ordinary skill in the art would be able to determine through routine experimentation the ideal levels of SAP concentration for a particular application.

Regarding claim 37, Suzuki'999/Stern/Hamajima/Suzuki '196/Gross discloses the surface sections on sheet 14, between absorbent layer, 10, serve to distribute fluids (EP 0 947549 page 16, lines 6-33 and Figures 11, 12, 14, and 15 of Suzuki'999).



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13. Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki WO 9825999 A1 (English version is EP 0 947549) in view of Hamajima et al. USPN 6326525 as applied to claim 30 above, in view of Suzuki et al. USPN 6258196 and further in view of Stern et al. USPN 4681577. Suzuki/Hamajima/Suzuki fails to disclose a coating of mineral oil over the SAP particles of the absorbent layer. Stern discloses an absorbent layer comprising superabsorbent particles and mineral oil (Stern col. 13, lines 40-49). It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate mineral oil in the absorbent layer of Suzuki. Doing so would provide an absorbent structure with high liquid retention and that entraps moisture and prevents leakage to surrounding clothing, which Stern teaches is desired.

14. Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki WO 9825999 A1 (English version is EP 0 947549) in view of Hamajima et al. USPN 6326525 in view of Suzuki et al. USPN 6258196 and further in view of Gross (USPN 5403870).

Suzuki discloses an absorbent article as claimed (Figure 52 of EP 0 947549; and page 16, lines 2-5) comprising an absorbent layer of hydratable fine fibers **114** in the form of microfibril obtained from cellulose or a derivative thereof (EP 0 947549 page 6, lines 45-54) and super absorbent polymer particles bonded together by the hydratable fibers (EP 0 947549 page 3, lines 46-49 and page 6, lines 11-45) and a nonwoven substrate supporting the absorbent layer (EP 0 947549 page 8, line 16 through page 11, line 12). The absorbent layer is coated (WO 9825999 Abstract).

Suzuki fails to disclose the absorbent article comprises cuffs containing absorbent material. Hamajima discloses an absorbent article having an absorbent composite that may also be contained in side cuffs or side-wrapping elements (Hamajima Figures 2A, 9, and 13) for the benefits of preventing leakage from the sides of the absorbent article (Hamajima col. 1, lines 35-46). It would have been obvious to one of ordinary skill in the art to modify the absorbent composite of Suzuki/Stern to comprise absorbent side cuffs for the benefits taught in Hamajima.

The absorbent composite of Suzuki/Hamajima has three components – a central fixed component, one left and one right component for side leakage prevention, wherein the central (first) composite and the left and right (cuffs) are sections of one continuous absorbent composite structure (Hamajima Figures 2A, 9, and 13).

Suzuki/Hamajima disclose the present invention substantially as claimed. However, Suzuki/Hamajima fails to disclose the super absorbent polymers exhibit gel blocking. Suzuki '196 discloses the polymeric materials are adapted to swell such as in '196 Figure 16b. Suzuki '196 further discloses that the 'waves' are hydrophobic which inherently creates a water impervious area when the polymeric materials swell ('196 col. 18 line 58 through col. 19, line 19). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the composite with a low crosslinked material to create a liquid impervious material, since Suzuki '196 teaches creating a liquid barrier due to the swelling of the absorbent particles (Hamajima col. 14, lines 15-25, col. 18, line 58 through col. 19, line 3). Additionally, it would have been

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obvious to one of ordinary skill in the art at the time of the invention to use the absorbent composite in the backsheet as claimed, since the absorbent particles as modified above are capable of creating a liquid barrier.

Suzuki'999/Hamajima/Suzuki '196/ do not disclose the free swell capacities of the SAP. Gross further discloses that the amount of cross-linking is proportional to its water-swellability. Therefore, Gross teaches the free swell capacity is a result effective variable of the amount of crosslinking of the SAP. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the composite of Suzuki '999/Stern/Hamajima/Suzuki '196/Gross with an SAP having the claimed free swell capacity since discovering an optimum value of a result effective variable only involves routine skill in the art.

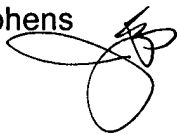
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacqueline F Stephens whose telephone number is (703) 308-8320. The examiner can normally be reached on Monday-Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (703)305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jacqueline F Stephens  
Examiner  
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A handwritten signature in black ink, appearing to be 'JF Stephens', written over the printed name.

February 19, 2004